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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,285	04/17/2002	Stefan Schuerg	R.38598	9597
2119	7590	04/28/2004	EXAMINER	
RONALD E. GREIGG GREIGG & GREIGG P.L.L.C. 1423 POWHATAN STREET, UNIT ONE ALEXANDRIA, VA 22314			FRISTOE JR, JOHN K	
		ART UNIT	PAPER NUMBER	
			3754	

DATE MAILED: 04/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Offic Action Summary</b>	Application No.	Applicant(s)
	10/049,285	SCHUERG ET AL.
Examiner	Art Unit	
John K. Fristoe Jr.	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 February 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 9-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 9,10,13,14 and 17-19 is/are rejected.
- 7) Claim(s) 11,12,16-18 and 20-23 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/11/2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

1. Applicant's arguments filed 2/17/2004 have been fully considered but they are not persuasive. Applicant's argument that Gurich does not disclose a bellows solidly attached to the actuator bore is not considered persuasive due to the fact that the bellows (18) is solidly connected to the actuator bore (containing element 21) via the bellows extension (26) and the bellows (18) is solidly connected (fig. 2) to a head of the piezoelectric actuator (17). Regarding Applicant's argument that the actuator bore is not element 21, the actuator bore is unnumbered and the bore contains element 21 and since a bore is defined as a hole, the leakage area 21 is considered as a part of the bore.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 2/11/2004 is acknowledged by the examiner.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 9, 10, 14, 13, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by German Pat. No. DE 19744235 A1 (Gurich et al.). Gurich et al. disclose a valve for controlling fluids having a piezoelectric actuator (17), an actuator bore (containing element 21), a hydraulic booster (20), a bellows (18) connected to the head (fig. 2) of the piezoelectric actuator (connected at 19) and the actuator bore (connected at 26), a sleeve-like extension (26), that is

solidly connected to the actuator bore via a press fit (fig. 2) of a retaining body (1), and the bellows (18) has three undulations (fig. 2).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over German Pat. No. DE 19744235 A1 (Gurich et al.) in view of U.S. Pat. No. 3,651,657 (Bottum). Gurich et al. disclose the valve actuator described above but lacks having the bellows seal being made of metal. Bottum teaches that a bellows may be made of either plastic or metal (col. 5, lines 2-4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the valve actuator having a plastic bellows of Gurich et al. by replacing the plastic bellows with a metal bellows as taught by Bottum in order for the bellows seal resist being disintegrated by the internal fluid of the valve and for the bellows seal to be able to last longer within the valve.

***Allowable Subject Matter***

7. Claims 11, 12, 15, 16, 20, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John K. Fristoe Jr. whose telephone number is (703) 308-1437. The examiner can normally be reached on Monday-Friday, 7: 00 a.m.-4: 30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Louis G. Mancene can be reached on (703) 308-2696. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3754

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John K. Fristoe Jr.  
Examiner  
Art Unit 3754

JKF



EDWARD K. LOOK  
SUPERVISORY PATENT EXAMINER  
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*4/22/04*